

NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

PREAMBLE

1. Register citation and date for the original Notice of Proposed Rulemaking:

Notice of Proposed Rulemaking: 9 A.A.R. 3858, September 5, 2003

2. Sections Affected

Rulemaking Action

R4-16-104

Amend

R4-16-105

Amend

Table 1

Amend

3. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 32-1403(A)(8), 32-1404(D)

Implementing statutes: A.R.S. §§ 32-1427(B), 41-1073

4. The name and address of agency personnel with whom persons may communicate regarding the rule(s):

Name: Rule Writing Staff

Address: Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

Telephone: (480) 551-2700

Fax: (480) 551-2704

E-mail: comments@azmdboard.org

5. An explanation of the rule(s), including the agency's reasons for initiating the rule(s):

The rules are being updated to be consistent with current rulewriting standards. The need for this rulemaking was identified during the five-year review process.

6. An explanation of the substantial change which resulted in this supplemental notice:

This is the second supplemental notice for this rulemaking. The first supplemental notice was published at 9 A.A.R. 5534, December 26, 2003. In this second supplemental notice, the time-frames in Table 1 relating to educational teaching permits are being expanded to eliminate a conflict with an applicant's right of appeal of an agency action. Additionally, minor revisions suggested by the Governor's Regulatory Review Council are made.

7. A showing of good cause why the rule(s) is/are necessary to promote a statewide interest if the rule(s) will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The proposed rulemaking provides clear, concise, and understandable information related to the time-frames in which the Arizona Medical Board may review and issue or deny an allopathic physician license or license renewal. The proposed rulemaking does not impose any additional regulations or restrictions on the regulated public, businesses, or consumers. The proposed rulemaking will have a positive impact on those affected. The proposed rulemaking provides the Board with useful information to aid in effective and efficient forecasting and scheduling.

The cost in preparing, implementing, and enforcing the proposed rulemaking is borne by the Arizona Medical Board. The cost is deemed minimal and expected, because the Arizona Medical Board views the rulemaking process as a cost of doing business. However, the benefits of the proposed rulemaking are invaluable to all who are affected.

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9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Rule Writing Staff
Address: Arizona Medical Board
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258
Telephone: (480) 551-2700
Fax: (480) 551-2704
E-mail: comments@azmdboard.org

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule(s) or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule(s):

Written comments will be accepted Monday through Friday from 8:00 a.m. to 5:00 p.m. at the address listed in item #4, or via e-mail to comments@azmdboard.org. An oral proceeding may be requested by contacting the individual identified in item #4. A separate notice will be published in the event an oral proceeding is scheduled. The record will close on July 19, 2004 at 5:00 p.m. unless a later date is provided for in any subsequent notice of oral proceeding.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the changes follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

ARTICLE 1. GENERAL PROVISIONS

Section

R4-16-104. Time-frames for ~~License, Permit, or Registration~~ Licenses, Permits, and Registrations
R4-16-105. Time-frames for License Renewal
Table 1. Time-frames (in calendar days)

ARTICLE 1. GENERAL PROVISIONS

R4-16-104. Time-frames for ~~License, Permit, or Registration~~ Licenses, Permits, and Registrations

- A. For each type of license, permit, or registration ~~issued~~ granted by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is ~~listed~~ set forth in Table 1.
- B. For each type of license, permit, or registration ~~issued~~ granted by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is ~~listed~~ set forth in Table 1 and begins on the date the Board receives an application ~~and all required documents and information.~~
1. If the required application is not administratively complete, the Board shall send ~~to the applicant,~~ a deficiency notice to the applicant.
- a. The notice shall state each deficiency and the documentation and information needed to complete the application ~~and documents.~~
- b. Within the time provided in Table 1 for response to a deficiency notice, ~~beginning on the date of mailing of a deficiency notice, an~~ applicant shall submit to the Board the ~~missing documents requested~~ documentation and information specified in the deficiency notice. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing documentation and information.
- c. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested documentation and information within the time-frame in Table 1.
- e. ~~Under A.R.S. § 32-1427(E), an applicant for an initial license by examination or endorsement who disagrees with the deficiency notice may request a hearing before the Board at its next regular meeting if there is time at that meeting to hear the matter. The board shall not delay a requested hearing beyond 1 regularly scheduled meeting. At any hearing granted under this subsection, the applicant shall have the burden of proof to demonstrate that the alleged deficiencies do not exist.~~
- d. ~~Under A.R.S. § 32-1427(F), if an applicant for initial license by examination or endorsement does not submit the missing documents and information indicated in the deficiency notice within the time frame specified in subsec-~~

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- tion (B)(1)(b), the Board shall deem the application withdrawn.
2. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
 3. If the application and submitted documents and information do not contain all of the components required by statute and rule, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.
 2. An applicant who disagrees with the deficiency notice may request a hearing before the Board, under A.R.S. § 32-1427(E), by filing a written request with the Board within 30 days of receiving the deficiency notice.
 - a. The Board shall place the hearing on the agenda for its next regular meeting if there is time available on the agenda. The Board shall not defer a hearing on a deficiency notice for more than one regular Board meeting.
 - b. The Board shall provide the applicant with written notice of the scheduled hearing at least 21 days in advance of the scheduled hearing.
 - c. The Board shall provide the applicant written notice of its decision in accordance with A.R.S. § 41-1092, et. seq.
- C. For each type of license, permit, or registration ~~issued~~ granted by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is ~~listed at set forth in~~ Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.
1. During the substantive review time-frame, the Board may make ~~+~~a comprehensive written request for additional information and additional requests with the applicant's written consent under A.R.S. § 41-1075. The applicant shall submit to the Board the additional information ~~identified by the comprehensive written request~~ within the time provided in Table 1, ~~beginning on the date of mailing of the comprehensive written request for additional information.~~ The time-frame for the Board to finish the substantive review is suspended from the date the Board mails the ~~comprehensive written request for additional information to the applicant until the Board receives the additional information.~~
 2. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the time-frame in Table 1.
 23. The Board shall issue a written notice of denial of license, permit, or registration if the Board determines that the applicant does not meet all of the substantive criteria required by statute and rule Title 32, Chapter 13 of the Arizona Revised Statutes and this Chapter for a license, permit, or registration.
 3. ~~The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the time frame in Table 1.~~
 4. If the applicant meets all of the substantive criteria required by ~~statute and rule~~ Title 32, Chapter 13 of the Arizona Revised Statutes and this Chapter for license, permit, or registration, and pays the fee under R4-16-109, the Board shall issue grant a license, permit, or registration to the applicant.
- D.** In computing any period of time prescribed by this Section, the day of the act, event, or default is not included. The last day of the period is included unless it is Saturday, Sunday, or a state holiday. The computation includes intermediate Saturdays, Sundays, and holidays. The time-frame for an applicant to respond to a deficiency notice or request for additional information commences on the date the Board mails the notice or request.

R4-16-105. Time-frames for License Renewal

- A. For ~~license renewal of licensure~~, the overall time-frame described in A.R.S. § 41-1072(2) is ~~90 calendar~~ days.
- B. For ~~license renewal of licensure~~, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is ~~90 calendar~~ 45 days and begins on the date the Board receives the renewal application.
 1. If the required application is not administratively complete, the Board shall send ~~to the applicant~~ a deficiency notice to the applicant. ~~The notice shall state each deficiency and the documents and information needed to complete the renewal application.~~
 - a. The notice shall state each deficiency and the documentation and information needed to complete the renewal application.
 - b. Within 60 days of the mailing date of the deficiency notice, the applicant shall submit to the Board the requested documentation and information specified in the notice. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the requested documentation and information.
 - c. The Board shall issue a written notice informing the applicant that the renewal application is deemed withdrawn if the applicant does not submit the requested documentation and information within the 60-day time-frame.
 2. ~~The 90 day time frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the needed documents and information.~~
 3. If an applicant does not submit a complete renewal application before May 1, the applicant's license expires, except that the license of a physician who does not renew the license and who has been advised in writing that an investigation is pending at the time the license is due to expire does not expire until the investigation is resolved. The license of a physician for whom an investigation is pending is suspended on the date it would otherwise expire and the physician shall not practice in this state until the investigation is resolved.
 4. ~~If the submitted application is administratively complete, the Board shall send a written notice of renewal to the~~

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- applicant.
2. An applicant who disagrees with the deficiency notice may request a hearing before the Board, under A.R.S. § 32-1427(E), by filing a written request with the Board within 30 days of receiving the deficiency notice.
 - a. The Board shall place the hearing on the agenda for its next regular meeting if there is time available. The Board shall not defer a hearing on a deficiency notice for more than one regular Board meeting.
 - b. The Board shall provide the applicant with written notice of the scheduled hearing at least 21 days in advance of the scheduled hearing.
 - c. The Board shall provide the applicant written notice of its decision in accordance with A.R.S. § 41-1092, et. seq.
- C.** For license renewal, the substantive review time-frame described in A.R.S. § 41-1072(3) is 45 days.
1. During the substantive review time-frame, the Board may make a comprehensive written request for additional information and additional requests with the applicant's written consent under A.R.S. § 41-1075. The applicant shall submit the additional information within 60 days of the mailing date of the request. The time-frame for the Board to finish the substantive review is suspended from the date the Board mails the request to the applicant until the date the Board receives the additional information.
 2. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the 60-day time-frame.
 3. If the applicant meets all of the substantive criteria required by Title 32, Chapter 13 of the Arizona Revised Statutes and this Chapter for license renewal, and pays the fee under R4-16-109, the Board shall renew the license.
 4. If the Board determines that the applicant does not meet all of the criteria required by Title 32, Chapter 13 of the Arizona Revised Statutes and this Chapter, the Board shall not renew the license and shall send written notice of the denial to the applicant.
- D.** In computing any period of time prescribed by this Section, the day of the act, event, or default is not included. The last day of the period is included unless it is Saturday, Sunday, or a state holiday. The computation includes intermediate Saturdays, Sundays, and holidays. The time-frame for an applicant to respond to a deficiency notice or request for additional information commences on the date the Board mails the notice or request.

Table 1. Time-frames (in calendar days)

Type of License	Overall Time-frame	Administrative Review Time-frame	Time of to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Request for Additional Information
Initial License by Examination	240	120	365	120	90
Initial License by Endorsement	240	120	365	120	90
Locum Tenens or Pro Bono Registration	120	60	30	60	30
Temporary License	60	30	30	30	30
Teaching License	40	20	30	20	30
Educational Teaching Permit	20 30	10	40 30	10	10
Training Permit	40	20	30	20	30
Short Term Short-term Training Permit	40	20	30	20	30
One-year Training Permit	40	20	30	20	30
Registration to Dispense Controlled Substances and Prescription-only Drugs and Devices	150	45	30	105	30